

REMARKS/ARGUMENTS

Prior to this Amendment, the application included claims 1, 8-17, 20 and 24-42. No claims have been amended, added, or canceled. Hence, after entry of this Amendment, claims 1, 8-17, 20 and 24-42 stand pending for examination.

Claims 1, 8-17, 20 and 24-42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the cited portions of U.S. Patent No. 6,233,448 to Alperovich et al. (“Alperovich”) in view of the cited portions of U.S. Patent No. 6,049,711 to Ben-Yehezkel et al. (“Ben-Yehezkel”).

Rejections Under 35 U.S.C. § 103(a)

The Applicants respectfully traverse the rejection of all claims under 35 U.S.C. § 103(a) since the Office Action has not established a case of prima facie obviousness. Specifically, the Ben-Yehezkel reference is not analogous art, the Office Action has not established that the alleged motivation to combine the references existed at the time of the Applicants’ invention, the motivation is not related to the Applicants’ invention, and the Office Action has not shown that the combination of references would produce a working embodiment of the claimed invention. These points are discussed in greater detail below.

Ben-Yehezkel is not analogous art to the present invention and, therefore, cannot be applied in a rejection under 35 U.S.C. § 103. The Examiner must determine what is “analogous prior art” for the purpose of analyzing the obviousness of the subject matter at issue. “In order to rely on a reference as a basis for rejection of an applicant’s invention, the reference must either be in the field of applicant’s endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned.” *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). MPEP 2141.01(a). Here, Ben-Yehezkel relates to providing location-based information services. Ben-Yehezkel fails to teach anything having to do with call processing. Accordingly, Ben-Yehezkel is neither “analogous” to the Applicants’ invention nor to Alperovich with which it is combined to reject the claims. Hence, the

obviousness rejection is improper for this reason alone. All pending claims are, therefore, believed to be allowable.

Moreover, the Office Action has not established that the motivation existed at the time of the Applicants' invention. The Office Action merely states that one of ordinary skill in the art would have been motivated "to provide location dependent, . . . user-defined information related to user interest such as traffic report at the current location." But the Office Action has not established that this motivation existed at the time of the Applicants' invention because the Office Action does not cite a reference for this motivation. This rejection appears to assume that the motivation existed at the time of the Applicants' invention based on facts within the personal knowledge of the Examiner. Hence, the Applicants respectfully request an affidavit in compliance with 37 CFR § 1.104(d)(2) if the rejection is maintained in the absence of a reference. Otherwise, the Applicants believe all pending claims are allowable for this additional reason.

Further, the motivation cited by the Office Action is irrelevant to the Applicants' claimed invention. The motivation relates to providing information-based information services. The claimed invention relates to call processing. Hence, the motivation has nothing to do with the Applicants' claimed invention, and the pending claims are allowable for this additional reason.

Further still, the combination of references would not produce a working embodiment of the Applicants' claimed invention. Providing information services is different from processing telephone calls. Combining the unrelated arts would require modification of the underlying technology. The Office Action has not provided any insight into how this would be accomplished. Hence, the Office Action has not shown that a reasonable expectation of success exists for the combination, and all pending claims are believed to be allowable for this additional reason.

Conclusion

In view of the foregoing, the Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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